

This letter concerns Vehicle Use Tax. See 625 ILCS 5/3-1001 et seq. (This is a GIL.)

January 9, 2006

Dear Xxxxx:

This letter is in response to your letter dated March 3, 2005, in which you request information. We apologize for the delay in responding to your inquiry. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

On behalf of PERSON, I recently visited a Chicago Secretary of State branch office in connection with transferring title to a vehicle into PERSON's name, as surviving spouse. The IDR representative on site at the Secretary of State's office rejected the position that PERSON is a surviving spouse, and therefore that the transaction is exempt from a vehicle use tax assessment, on the grounds that the title to the vehicle in question is held in the name of 'ABC'. Apparently, the IDR's position is that a vehicle titled in a 'business' name cannot be transferred to a surviving spouse.

I believe this argument ignores the distinction made under Illinois law between a corporation and a 'd/b/a'. As indicated in the attached draft affidavit and in the attached copies of the internet search results of the Secretary of State's online corporate search database, 'ABC' is only a d/b/a and not a corporation. Therefore, it is PERSON's position that, under Illinois law, a title to a vehicle held in the name of a business d/b/a is legally equivalent to title being held in the name of the person utilizing that d/b/a. Again, as set forth in the enclosed draft affidavit (prepared in compliance with 625 ILCS 5/3-114) PERSON's deceased spouse, PERSON2, did business under the name of 'ABC' several years ago, prior to his retirement. PERSON can establish in accordance with 625 ILCS 5/3-114 that she is the surviving spouse of the vehicle title holder and that the correction/transfer of title into her name is a transaction exempt from vehicle use tax assessment. PERSON asks that the IDR issue a letter ruling to that effect.

To hold otherwise would render the transfer of the title to the vehicle impossible in a case such as this where no estate was opened and where no court order directing the collection/transfer of the title can be obtained. While we understand that the Legislature is in session and that the crush of work in your office is demanding, PERSON may have to sell the vehicle promptly for various reasons, and she therefore requests that the IDR respond to this request for a letter ruling quickly possible.

We appreciate your consideration in advance.

DEPARTMENT'S RESPONSE:

We regret we cannot issue a ruling as you have requested. The information enclosed with your letter lists ABC as the owner of the vehicle. There is no reference to PERSON2 on the title. In addition, there is no information establishing that PERSON2 was doing business as ABC under the certification requirements of 805 ILCS 405/0.01.

You have stated that such a ruling would render the transfer of the vehicle impossible in these circumstances. Please note that the actual ownership of the vehicle is determined by the Secretary of State's Office. The determination of the amount of tax due on such transfer is not determinative of who the vehicle may lawfully be transferred to by the Secretary of State's Office. Again, we apologize for our delay and any inconvenience it may have caused you or your client.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Terry D. Charlton
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TDC:msk